

RETURN to:
City Attorney's Office
200 N.W. 1st Avenue
Delray Beach, FL 33444

PCN: 12-43-46-09-35-000-0140
Address: 711 N. Ocean Boulevard

LANDSCAPE MAINTENANCE AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 20__ by and between the **City of Delray Beach**, a Florida municipal corporation of the State of Florida, whose address is 100 NW 1st Avenue, Delray Beach, Florida 33444 (the "City") and **Ocean 711 Delray Land Trust dated as of February 12, 2021**, whose address is 711 N. Ocean Boulevard, Delray Beach, Florida 33483 (the "Owner").

WITNESSETH:

WHEREAS, to provide landscaping in the City, the City Commission has adopted ordinances setting forth requirements for landscaping; and

WHEREAS, the Owner owns a parcel of land with a street address of 711 N. Ocean Boulevard, Delray Beach, Florida 33483 (the "Property"), as more particularly described in Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, to comply with the City's landscape Ordinance, Owner wants to install landscaping and/or hardscape material (the "Improvements") within the Florida Department of Transportation ("FDOT") right-of-way of N. Ocean Boulevard abutting the Property (the "ROW Area"), pursuant to the terms of this Agreement; and

WHEREAS, FDOT requires the City to enter into an agreement requiring the City to install and maintain the Improvements in the ROW Area; and

WHEREAS, the City is required to indemnify and hold harmless FDOT for the Improvements and work performed in the ROW Area; and

WHEREAS, this Agreement requires Owner to hold harmless and defend the City for the installation and maintenance of the Improvements in the ROW Area; and

WHEREAS, this Agreement shall in no way be deemed an actual, constructive, or any other type of abandonment of City or FDOT public right-of-way; and

WHEREAS, the Owner acknowledges FDOT reserves the right at any time to utilize the ROW Area for right-of-way purposes; and

WHEREAS, the public will benefit from the beautification of areas along its streets by the addition of the Improvements; and

WHEREAS, this Agreement is not effective unless the Owner has submitted a landscape and/or site plan, obtained approval from the City and FDOT, and the appropriate amendment to the August 31, 2012, Maintenance Memorandum of Agreement between the City and FDOT has been fully executed; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Parties hereby represent and warrant that the above recitals are accurate and correct and hereby incorporate them in this Agreement.

2. The Owner shall perform all conditions as required by FDOT, the City, or any Board of the City in conjunction with the site plan and review process for the required installation and maintenance of the Improvements. The Property and ROW Area shall have an approved landscape and/or site plan, attached hereto and incorporated herein as Exhibit "B".

3. The Owner shall be responsible for purchasing and installing all plant, tree, hedge, or grass material and any other hardscape material as required by the Owner's approved landscaping and/or site plan. Owner shall further be responsible for obtaining all permits and approvals from all applicable governmental agencies.

4. The Owner hereby agrees to maintain the Improvements in the right-of-way in accordance with the City's Ordinances, FDOT regulations, and the terms and conditions of this Agreement. The Owner shall be responsible to maintain, which means the proper watering and proper fertilization of all plants and keeping them as free as practicable from disease and harmful insects; to properly mulch the plant beds; to keep the premises free of weeds; to mow and/or cut the grass to a proper height; to properly prune all plants which includes (1) removing dead or diseased parts of plants, or (2) pruning such parts thereof which present a visual hazard for those using the roadway. To maintain also means removing or replacing dead or diseased plants in

their entirety or removing or replacing those that fall below original project standards. All plants removed for whatever reason shall be replaced by plants of the same grade, not necessarily the same plant but of acceptable quality to the City and the Owner, as specified in the original plans and specifications and of a size comparable to those existing at the time of replacement. To maintain also means to keep litter removed from the areas in the right-of-way. Plants shall be those items that would be scientifically classified as plants and include but are not limited to trees, grass, or shrubs.

5. If at any time after the execution of this Agreement by the Owner, it shall come to the attention of the City that the landscaping or hardscape is not properly maintained pursuant to the terms and conditions of this Agreement then the City may at its option issue a written notice that a deficiency or deficiencies exist, by sending a certified letter to the Owner. Thereafter, the Owner shall have a period of thirty calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the City may at its option, proceed as follows:

- (a) Maintain the landscaping or part thereof and invoice the Owner for expenses incurred, which, if unpaid, can be recorded as a lien against the Property;
- (b) Terminate this Agreement and require the Owner to comply with the City's current Ordinance on landscaping; or
- (c) Cite the Owner for failure to comply with the City's Ordinances.

6. At all times hereto, the Owner shall own and maintain all Improvements installed in the ROW Area.

7. If for any reason FDOT decides that it needs the ROW Area for any purpose this Agreement shall terminate, and the Owner shall be required to comply with the City's current Code of Ordinances. Owner shall remove all the Improvements from the right-of-way within 20 days of such notification, if so requested by the City.

8. Owner shall at all times hereafter indemnify, hold harmless and, at the City's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional or negligent act of, or omission of, Owner, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject

matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action or demand, Owner shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by City Attorney to defend City. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement.

9. The City hereby reserves the right to enforce this Agreement by pursuing any and all remedies provided by law or in equity. All of the remedies available to the City shall be cumulative, and the City's election to pursue any remedy shall not preclude the City for then or later pursuing any one or more other remedies

10. This Agreement shall constitute the entire Agreement of the parties with respect to the subject matter of it. All prior understandings and agreements between the parties with respect to such matters are merged into this Agreement, which alone fully and completely expresses their understanding.

11. Upon conveyance of the subject property to any future owner, this Agreement shall be deemed automatically assigned by the Owner to any such future owner of the Property, and such future owner shall be deemed to have assumed all the Owner's obligations hereunder. This Agreement may not otherwise be assigned or transferred by the Owner, in whole or part, without the written consent of the City.

12. This Agreement shall be binding on the Parties, their respective heirs, successors, legal representatives, and permitted assigns and shall be recorded in the Public Records of Palm Beach County and shall run with the land.

13. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

14. Owner shall be bound by all the terms and conditions regarding the ROW Area found in the Florida Department of Transportation, District Four (4) Landscape Inclusive Maintenance Memorandum of Agreement entered into by the City and FDOT on August 31, 2012, including any amendments thereto.

15. Any notice or communication under this Agreement shall be in writing and may be given by registered or certified mail. If given by registered or certified mail, the notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed, with postage prepaid. If given otherwise, then by registered or certified mail, it should be deemed to have been given when delivered to and received by the party to whom it is addressed. The notices and communication shall be given to the particular parties at the following addresses:

City: City Manager
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

Owner: Ocean 711 Delray Land Trust dated as of February 12, 2021
711 N. Ocean Boulevard
Delray Beach, Florida 33483

Either party may at any time by giving ten (10) days written notice designate any other person or entity or any other address in substitution of the foregoing to which the notice or communication shall be given.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and the Owner executed this Agreement as of the day and year first above written.

WITNESSES:

[Signature]
Signature

Deer One/Kette
Print or Type Name

318 S. Powerline Rd.
Deerfield Beach FL 33442.
Address

[Signature]
Signature

Kelli R. Lyndon
Print or Type Name

318 S. Powerline Rd.
Deerfield Beach, FL 33442
Address

STATE OF Florida
COUNTY OF Broward

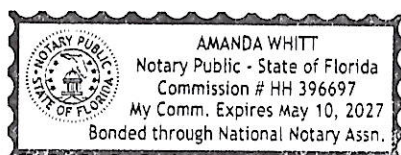
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 3 day of October, 2025, by Michael Horvitz (name of person), as Trustee (type of authority) for Ocean 711 Delray Land Trust dated as of February 12, 2021 (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification
Type of Identification Produced _____

OWNER: [Signature]
By: _____
Signature
Michael D Horvitz
Print or Type Name

Trustee
Type of Authority
for
Company Name: Ocean 711 Delray Land
Trust dated as of February 12, 2021

[Signature]
Notary Public – State of Florida



ATTEST:

CITY OF DELRAY BEACH, FLORIDA

Alexis Givings, City Clerk

By: _____
Thomas F. Carney, Jr., Mayor

Approved as to legal form
and sufficiency:

Lynn Gelin, City Attorney

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EXHIBIT "A"
LEGAL DESCRIPTION OF REAL PROPERTY

Lot 14, Crestwood, according to the Plat thereof, as recorded in Plat Book 23, Page 161, of the Public Records of Palm Beach County, Florida.

EXHIBIT “B”
LANDSCAPE AND/OR SITE PLAN

- FDOT GENERAL NOTES**
1. GOVERNING STANDARD PLANS:
FLORIDA DEPARTMENT OF TRANSPORTATION, FY 2025-26 STANDARD PLANS FOR ROAD AND BRIDGE CONSTRUCTION AND APPLICABLE INTERIM REVISIONS (IRS) ARE AVAILABLE AT THE FOLLOWING WEBSITE: STANDARD PLANS - FY 2025-26
 2. GOVERNING STANDARD SPECIFICATIONS:
FLORIDA DEPARTMENT OF TRANSPORTATION, FY 2025-26 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AT THE FOLLOWING WEBSITE: 2025-26-EBOOK-COMPRESSED.PDF
 3. CONTRACTOR SHALL REPAIR ALL DAMAGE DONE TO FDOT PROPERTY DURING DEMOLITION, RELOCATION &/OR INSTALLATION ACTIVITIES AT HIS SOLE EXPENSE.
 4. ANY PLANT MATERIAL SUBSTITUTION WITHIN OR IMPACTING THE FDOT RIGHT OF WAY WHETHER REQUESTED BY THE CONTRACTOR, OWNER, LANDSCAPE ARCHITECT OR OTHER WILL NEED TO GET APPROVAL FROM THE FDOT DISTRICT LANDSCAPE ARCHITECT.
 5. ARCHITECTURAL PAVERS INSTALLATION FOR SIDEWALKS, MEDIANS, DRIVEWAYS, OR ROADWAYS WITHIN THE FDOT RIGHT OF WAY SHALL COMPLY WITH CURRENT FDOT STANDARD SPECIFICATION 526. ONLINE REFERENCE: 2025-26-EBOOK-COMPRESSED.PDF
 6. OWNERSHIP OF ALL SUITABLE EXCAVATED MATERIALS, AS DETERMINED BY THE DEPARTMENT, SHALL REMAIN IN THE DEPARTMENT UNTIL A FINAL ACCEPTANCE OF THE PERMITTED PROJECT IS FILLED. EXCAVATED MATERIALS SHALL BE HAULED BY THE PERMITTEE, AT THEIR COST & EXPENSE FROM THE SITE TO THE FDOT PALM BEACH OPERATIONS CENTER OR STOCKPILED IN THOSE AREAS AS DIRECTED BY THE DEPARTMENT, INCLUDING ASPHALT MILLINGS.



SITE LOCATION

CALL SUNSHINE NO-CUTS 48 HOURS BEFORE YOU DIG, 1-800-432-4770.
This drawing is a reproduction of a drawing created by a third party. The user assumes all liability for the accuracy and completeness of the information provided. The user agrees to hold the provider harmless from all claims, damages, and expenses, including reasonable attorneys' fees, arising from the use of this information. The provider makes no warranty, express or implied, for the accuracy, completeness, or suitability for any purpose of the information provided. The provider is not responsible for any errors or omissions in this document. The provider is not responsible for any consequences arising from the use of the information provided. The provider is not responsible for any damages, including consequential damages, arising from the use of the information provided. The provider is not responsible for any losses, including lost profits, arising from the use of the information provided. The provider is not responsible for any claims, damages, and expenses, including reasonable attorneys' fees, arising from the use of this information. The provider makes no warranty, express or implied, for the accuracy, completeness, or suitability for any purpose of the information provided. The provider is not responsible for any errors or omissions in this document. The provider is not responsible for any consequences arising from the use of the information provided. The provider is not responsible for any damages, including consequential damages, arising from the use of the information provided. The provider is not responsible for any losses, including lost profits, arising from the use of the information provided.

DESIGN SPEED=35 MPH
FDOT LANDSCAPE PERMIT
NUMBER 2025-L-496-00010



NOT TO SCALE

PLATM DESIGN STUDIO 802 CLINT MOORE ROAD, SUITE 210, BOCA RATON, FL 33487 561-993-8888 WWW.PLADESIGNSTUDIO.COM © 2025 PLA DESIGN STUDIO	HORVITZ RESIDENCE 711 N. OCEAN BLVD, DELRAY BEACH, 33484	ISSUED FOR: 1. FDOT SUB. 05/29/25 2. RE-SUB. 07/31/25 3. 4. 5. 6. 7. 8. 9. 10.	
Sheet No: 23-002 Project Name: Horvitz Residence Client: Horvitz Residence Date: 07/31/25 Drawn By: JS Check By: JS	PERMIT RE-SUBMISSION 07/31/25 L-1		

ISSUED FOR:	
1. FDOT SUB.	05/29/25
2. RE-SUB.	07/31/25
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	

Diagram illustrating the sod edge structure and associated plant and soil zones. The diagram shows a cross-section of a sod edge with various layers and plant growth patterns. Key features labeled include:

- ESTABLISH CONTINUOUS LINE WITH FRONT ROW OF SHRUBS, INITIAL PLANT SHRUBS AS NEEDED TO ALLOW BEST SOLE OF SHRUBS TO FACE FRONT.** (Indicated by a line with a cross symbol)
- MULCH** (Indicated by a shaded area)
- MAINTAIN 1/2" NARROW CLEAN ZONE AT PLANT BED EDGES AND ALONG SOD EDGE** (Indicated by a line with a cross symbol)

- RESIDENCE
-
- O, DELRAY BEACH, 33484

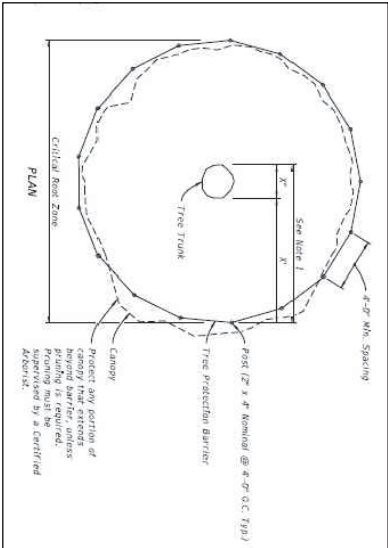
- REMOVE BILIRUBIN FROM TOP HALF

- REMOVE BURLAP FROM TOP HALF OF ROOT BALL
- MULCH AND PLANTING MIX AS SPECIFIED THOROUGHLY JET AND WASH BACKFILL TO ELIMINATE AIR POCKET

-
- SET ROOT COLLAR 1-2" ABOVE ELEVATION OF EXISTING GRADE
 PROVIDE 2" EARTH SAUCE
 TAMP BOTTOM OF PLANTING HOLE TO MINIMIZE SETTLING

PLEASE NOTE:
COMPLETELY REMOVE ALL SYNTHETIC MATERIALS

**ATM DESIGN
STUDIO**



FDOT LANDSCAPE PERMIT
NUMBER 2025-L-496-00010

[illegible]

